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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,035	10/12/2005	Christer Jansson	0380-P03635US0	1362
110 7590 01/10/2008 DANN, DORFMAN, HERRELL & SKILLMAN 1601 MARKET STREET SUITE 2400 PHILADELPHIA, PA 19103-2307			EXAMINER PAGE, BRENT T	
			ART UNIT 1638	PAPER NUMBER
			MAIL DATE 01/10/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/537,035	Applicant(s) JANSSON ET AL.	
	Examiner Brent Page	Art Unit 1638	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 28-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-26 and 28-33 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/ are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-9, 12, 16-24, and 28-31, drawn to a nucleotide sequence encoding a transcription factor, and the transformation of a plant with said nucleotide sequence.

Group II, claim(s) 10-11, 13-15, and 32 drawn to a probe and method of making a probe.

Group III, claim(s) 25-26, drawn to an isolated polypeptide.

Group IV, claim 33 drawn to a method of confirming whether a cis promoter element is present in a plant.

The inventions are independent or distinct, each from the other because:

The above groupings share the technical feature of DNA regulatory elements.

However, this feature is not special because it does not constitute and advance over the prior art. Trolinder et al (US Patent 5994624) disclose a method of transforming a plant using a variety of plant promoters (see claims, for example).

Furthermore the inventions are independent and distinct from one another for the following reasons:

Invention I does not require the probes or method of identification required by Invention II, the polypeptide isolation materials and method steps required by Invention III, nor the method steps and identification of promoter elements of Invention IV. Invention I requires plant transformation materials and steps not required by any other invention.

Invention II requires probe DNA segments not required by any other Invention. Invention II does not require plant transformation materials and steps required by Invention I, the polypeptide isolation materials and method steps required by Invention III, nor the method steps and identification of promoter elements of Invention IV.

Invention III requires polypeptide isolation materials not required by any other invention. Invention III does not require plant transformation materials and steps required by Invention I, the probes or method of identification required by Invention II, nor the method steps and identification of promoter elements of Invention IV.

Invention IV requires method steps for identifying promoter elements not required by any other invention. Invention IV does not require require plant transformation materials and steps required by Invention I, the probes or method of identification required by Invention II, nor the polypeptide isolation materials and method steps required by Invention III.

For the reasons given above restriction is therefore proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent Page whose telephone number is (571)-272-5914. The examiner can normally be reached on Monday-Friday 8-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571)-272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brent T Page



PHUONG T. BUI
PRIMARY EXAMINER